

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LORI LEE CONLEY SHOEMAKER  
Plaintiff

vs.

No. 02-CV- 3210

LANCASTER LABORATORIES, INC. and  
EDUCATORS MUTUAL LIFE INSURANCE  
COMPANY  
Defendants

**EDUCATORS MUTUAL LIFE INSURANCE COMPANY'S  
MOTION TO DISMISS**

**AND NOW**, comes the Defendant, Educators Mutual Life Insurance Company, through its attorneys, Barley, Snyder, Senft & Cohen, LLC, and moves to dismiss Plaintiff's Complaint, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and asserts in support the following:

1. Plaintiff Lori Lee Conley-Shoemaker ("Shoemaker") initiated this action in state court, and specifically in the Court of Common Pleas of Lancaster County, Pennsylvania.

2. In her complaint filed in state court, Shoemaker alleges that, at times relevant to the complaint, she was employed by Defendant Lancaster Laboratories, Inc. ("Lancaster Laboratories").

3. Shoemaker further alleges that Lancaster Laboratories purchased a group long-term disability policy ("Policy") from Educators Mutual Life Insurance Company ("Educators"), providing up to 60 months of long-term disability benefits ("LTD Benefits") to Lancaster Laboratories' employees.

4. Shoemaker further alleges that she is disabled under the terms of the Policy and entitled to benefits.

5. Shoemaker alleges that Educators has wrongfully stopped paying benefits to her.

6. In the complaint, Shoemaker seeks equitable relief for the alleged wrongful stoppage of LTD Benefits.

7. Shoemaker is in effect seeking benefits under a group long-term disability policy, and any claim for denial of benefits is a claim to be determined under the Employee Retirement Income Security Act of 1974 as Amended ("ERISA"), 29 U.S.C. § 1001, *et seq.*

8. Shoemaker's complaint should be dismissed, as asserting a state law claim which is pre-empted by ERISA.

9. Lancaster Laboratories joins in this Motion.

**WHEREFORE**, for the reasons set forth above and in the accompanying Memorandum of Law in support of the Motion, Educators Mutual Life Insurance Company respectfully requests that this Court dismiss Lori Lee Conley-Shoemaker's Complaint.

BARLEY, SNYDER, SENFT & COHEN, LLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

George C. Werner, Esquire  
Attorney for Defendant  
Educators Mutual Life Insurance Company  
126 East King Street  
Lancaster, PA 17602-2893  
Court I.D. 28757  
717-299-5201

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by first class mail, postage prepaid, upon:

John L. Sampson, Esquire  
Appel & Yost LLP  
33 North Duke Street  
Lancaster, PA 17602-2842

Lancaster Laboratories, Inc.  
2425 New Holland Pike  
Lancaster, PA 17605-2425

BARLEY, SNYDER, SENFT & COHEN, LLC

By: \_\_\_\_\_  
George C. Werner, Esquire  
Court I.D. 28757  
Attorneys for Defendant  
Educators Mutual Life Insurance Company  
126 East King Street  
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**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2002, upon consideration of Defendant Educators Mutual Life Insurance Company's Motion to Dismiss and Memorandum of Law in Support, the joinder of Lancaster Laboratories, Inc. in the Motion, and Plaintiff's Response thereto, it is hereby ordered that the Motion is granted, and Plaintiff's Complaint is dismissed.

BY THE COURT:

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J.